

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

MARC DEAN,
Plaintiff,

vs.

Case No. _____

BAKER INSTALLATION, INC., [sic],
Defendant.

NOTICE OF REMOVAL

TO: Cathy Gaston, Circuit Clerk of Kanawha County, West Virginia
Eunice L. Green, Esquire

Notice is hereby given, in accordance with the provisions of 28 U.S.C. § 1446, as amended, that Defendant, JWCF, LP, formerly known as Baker Installations (erroneously identified as Baker Installation, Inc.), hereby removes this action, originally instituted in the Circuit Court of Kanawha County, West Virginia, as Civil Action No. 09-C-624, to the United States District Court for the Southern District of West Virginia, Charleston Division.

The following are the grounds for removal:

1. On or about April 6, 2009, Plaintiff, Marc Dean, by counsel, filed a Complaint commencing the above-captioned proceeding in the Circuit Court of Kanawha County, West Virginia (Civil Action No. 09-C-624). Attached hereto, as Exhibit A, are copies of the Summons and Complaint, which constitute all process, pleadings and papers served upon Defendant in this civil action.

2. No further proceedings have taken place since the date of service of the Summons and Complaint as evidence by a certified copy of the case file, from the Circuit Clerk of Kanawha County, attached herewith as Exhibit B.

3. The causes of action, if any, stated in Plaintiff's Complaint are within the original jurisdiction of this Court, pursuant to 28 U.S.C. § 1331, as Plaintiff's claim arises under the laws of the United States; and said civil action is one which may be removed to this Court by Defendant herein, pursuant to the provisions of 28 U.S.C. § 1441. In this civil action, the Plaintiff seeks damages pursuant to Title VII of the Civil Rights Act of 1964, codified as 42 U.S.C. § 2000e, et seq. More particularly, Plaintiff's relevant claim, in paragraph 22. of his Complaint, is:

a. Plaintiff was subjected to racial discrimination within the meaning of the Civil Rights Act of 1964, as amended. See Complaint at 22.

4. This Honorable Court may exercise supplemental jurisdiction over Plaintiff's state law claims—to the extent they are actionable and to the extent any state claims have been made, pursuant to 28 U.S.C. § 1367—because all of Plaintiff's aforementioned state and federal claims arise from a common nucleus of operative fact. As such, Plaintiff's claims of state law violations “are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367(a) (1996).

5. Service of the Complaint on the Defendant was accepted, by the West Virginia Secretary of State, on behalf of the Defendant, on August 17, 2009; and this Notice of Removal is filed within thirty (30) days after service of the initial pleading setting forth a claim upon which the proceeding is based. See Docket Sheet, Kanawha County Circuit Court, contained in Exhibit B, attached hereto.

6. A copy of this Notice of Removal has been served upon the Plaintiff and filed with the Clerk of the Circuit Court of Kanawha County, as required by 28 U.S.C. § 1446(d).

7. No previous application for the relief sought herein has been made.

You are further notified that, under the provisions of the United States Code, as amended, the above-styled civil action has now been removed to the United States District Court for the Southern District of West Virginia and that the Circuit Court of Kanawha County, West Virginia may take no further action in this matter.

JWCF, LP, formerly known as Baker Installations,
Inc.,

By Counsel,

/s/ Barbara G. Arnold

Barbara G. Arnold (W. Va. Bar I. D. 4672)
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CHARLESTON DIVISION

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BAKER INSTALLATION, INC., [sic]

Defendant.

CERTIFICATE OF SERVICE

I, Barbara G. Arnold, counsel for JWCF, LP, the actual Defendant herein, do hereby certify that, on the 16th day of September, 2009, I electronically filed the NOTICE OF REMOVAL, with the Clerk of the Court using the CM/ECF system which will provide notice of such filing to:

Cathy Gaston
Circuit Clerk of Kanawha County
Kanawha County Courthouse
111 Court Street
Charleston, West Virginia 25301

Eunice L. Green, Esquire
P. O. Box 893
Dunbar, West Virginia 25064

/s/ Barbara G. Arnold
Barbara G. Arnold (W. Va. Bar I. D. 4672)
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